

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHARLES SOWARDS,

Plaintiff(s)

vs.

SCIOTO COUNTY COMMON PLEAS,

Defendant(s)

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Case Number: C-1-02-133

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on February 18, 2003 Report and Recommendations (Doc. 8). Subsequently, the plaintiff filed objections to such Report and Recommendations.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

IT IS ORDERED AND ADJUDGED that the writ of error coram vobis (Doc. 1) is hereby DISMISSED without prejudice to refile under 28 U.S.C. § 2254. The Clerk of Courts shall provide the petitioner with forms for habeas corpus relief pursuant to 28 U.S.C. § 2254 in the event that petitioner wishes to pursue a challenge to his state court conviction.

IT IS FURTHER ORDERED AND ADJUDGED that respondent's motion to dismiss the petition as time-barred pursuant to 28 U.S.C. § 2244(d) (Doc. 3) is hereby DENIED for the reason that the statute of limitations applies to habeas corpus petitions submitted pursuant to 28

U.S.C. § 2254, not to petitions for a writ of error coram vobis and for the additional reason that the Court lacks jurisdiction over petitioner's action.

IT IS SO ORDERED.

____s/Susan J. Dlott_____
Susan J. Dlott
United States District Judge